

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES MARTINEZ,
Aka Daniel Rodriguez (#1068838)

Plaintiff

v.

WASHOE COUNTY JAIL, *et al.*,

Defendants

Case No. 3:21-cv-00098-MMD-WGC

ORDER

I. DISCUSSION

On March 1, 2021, this Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee for a civil action on or before April 27, 2021. (ECF No. 4 at 2).

On April 8, 2021, Plaintiff filed a second incomplete application to proceed *in forma pauperis* that again did not include the required financial certificate. (ECF No. 5). With his application, Plaintiff also submitted a letter to the Court requesting additional time to file his financial certificate due to his recent move from the Washoe County Detention Center to the Northern Nevada Correctional Center. (ECF No. 5-1).

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**.

1 Accordingly, the Court denies Plaintiff's application to proceed *in forma pauperis*
2 (ECF No. 5) without prejudice because the application is incomplete.

3 The Court will grant Plaintiff's request for an extension of time (ECF No. 5-1) and
4 provide Plaintiff one additional opportunity to file a fully complete application to proceed
5 *in forma pauperis* containing all three of the required documents or pay the full \$402 filing
6 fee on or before **June 8, 2021**. With his next application, Plaintiff must submit a fully
7 complete application containing all three of the required documents. Plaintiff may not
8 submit only a completed financial certificate to be considered with his other incomplete
9 applications. Absent unusual circumstances, the Court will not grant any further
10 extensions of time.

11 If Plaintiff does not file a fully complete application to proceed *in forma pauperis*
12 with all three required documents on or before **June 8, 2021**, this case will be subject to
13 dismissal without prejudice for Plaintiff to file a new case with the Court when Plaintiff is
14 able to acquire all three of the documents needed to file a fully complete application to
15 proceed *in forma pauperis* or pays the full \$402 filing fee.

16 A dismissal without prejudice means Plaintiff does not give up the right to refile the
17 case with the Court, under a new case number, when Plaintiff has all three documents
18 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff
19 may choose not to file an application to proceed *in forma pauperis* and instead pay the
20 full filing fee of \$402 on or before **June 8, 2021** to proceed with this case.

21 The Court will retain Plaintiff's civil rights complaint (ECF No. 3), but the Court will
22 not file the complaint unless and until Plaintiff timely files a fully complete application to
23 proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

24 **II. CONCLUSION**

25 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed
26 *in forma pauperis* (ECF No. 5) is denied without prejudice to file a new fully complete
27 application to proceed *in forma pauperis* with all three documents.

28 IT IS FURTHER ORDERED that the Plaintiff's request for an extension of time

(ECF No. 5-1) is granted.

IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well as the document entitled information and instructions for filing an *in forma pauperis* application.

IT IS FURTHER ORDERED that on or before **June 8, 2021**, Plaintiff will either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52 administrative fee) or file with the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period.**

IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a civil action on or before **June 8, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case number, when Plaintiff has all three documents needed to file a complete application to proceed *in forma pauperis* or pays the the full \$402 filing fee.

IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint (ECF No. 3) but will not file it at this time.

DATED: April 12, 2021

William G. Cobb

UNITED STATES MAGISTRATE JUDGE

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